

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

SCHWALBACH HOLDINGS, INC.,)

Defendant.)

CIVIL ACTION NO. *06cv3871*
RHK/AJB

COMPLAINT

Jury Trial Requested

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Steven Long ("Long") who was adversely affected by such practices. Defendant Schwalbach Holdings, Inc., terminated Long's employment because of his perceived disability in violation of the Americans With Disabilities Act.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Minnesota.

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PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, Schwalbach Holdings, Inc., (the "Employer"), has continuously been incorporated in the State of Minnesota and doing business in the State of Minnesota and the City of Windom, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, Defendant Employer has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Steven Long filed a charge with the Commission alleging violations of the ADA by Defendant Schwalbach Holdings, Inc. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. In December 2005, Defendant engaged in unlawful employment practices at its Worthington, MN, facility, in violation of Section 102(a) of Title I of the ADA, 42 U.S.C.

§12112(a). In December 2005, Defendant terminated Long's employment because it regarded him as having a disability.

9. The effect of the practices complained of above has been to deprive Steven Long of equal employment opportunities and otherwise adversely affect his status as employee because he was perceived as having a disability.

10. The unlawful employment practices complained of above were intentional.

11. The unlawful employment practices complained of above were done with malice or reckless indifference to the federally protected rights of Steven Long.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Schwalbach Holdings, Inc., its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in discrimination and any other employment practice which discriminates on the basis of disability.

B. Order Defendant Schwalbach Holdings, Inc. to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Schwalbach Holdings, Inc. to make whole Steven Long, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement of Steven Long.

D. Order Defendant Schwalbach Holdings, Inc. to make whole Steven Long by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including medical expenses and lost benefits, in amounts to be determined at trial.

E. Order Defendant Schwalbach Holdings, Inc. to make whole Steven Long by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation in amounts to be determined at trial.

F. Order Defendant Schwalbach Holdings, Inc. to pay Steven Long punitive damages for its malicious and reckless conduct, as described above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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Dated:

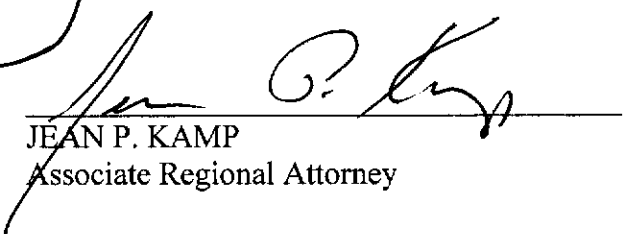
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